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14 Attorneys for Plaintiffs

11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

13 IN RE BARD IVC FILTERS  
14 PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

15 Nicole Costanzo, an individual,  
16  
17 Plaintiff,

Civil Action No.: 2:17-cv-00460-PHX-DGC

18 v.

**NOTICE OF FILING AMENDED  
COMPLAINT**

19 C.R. Bard, Inc., a corporation, and Bard  
20 Peripheral Vascular, Inc., an Arizona  
corporation,

21 Defendants.  
22

23 Pursuant to Local Rule of Civil Procedure 15.1(b), Plaintiff Nicole Costanzo  
24 respectfully submits this Notice of Filing First Amended Complaint. Attached as Exhibit  
25 A is a copy of the amended complaint that indicates in what respect it differs from the  
26 original complaint. The original complaint has not yet been served on the Defendants.  
27  
28

1  
2 RESPECTFULLY SUBMITTED this 14<sup>th</sup> day of February, 2017.

3 LOWE LAW GROUP  
4

5  
6 By /s/ T. Aaron Stringer  
7 T. Aaron Stringer  
8 Nathan Butters  
9 6028 S. Ridgeline Drive, Suite 200  
Ogden, UT 84405  
*Attorneys for Plaintiff(s)*

10  
11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on this 14<sup>th</sup> day of February, 2017, I electronically transmitted  
13 the attached document to the Clerk's Office using the CM/ECF System for filing and  
14 transmittal of a Notice of Electronic Filing.  
15

16  
17 /s/ T. Aaron Stringer  
18 T. Aaron Stringer  
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# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS  
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

**FIRST AMENDED MASTER SHORT  
FORM COMPLAINT FOR DAMAGES  
FOR INDIVIDUAL CLAIMS**

Plaintiff(s) named below, for their Complaint against Defendants named below,  
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

Plaintiff(s) further show the Court as follows:

1. Plaintiff:

Nicole Costanzo

2. Spousal Plaintiff's spouse or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,  
conservator):

N/A

4. Plaintiff's state(s) [if more than one Plaintiff] of residence at the time of  
implant:

New York

5. Plaintiff's/ state(s) [if more than one Plaintiff] of residence at the time of  
injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

New York

7. District Court and Division in which venue would be proper absent direct filing:

Eastern District of New York

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: \_\_\_\_\_

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Express Vena Cava Filter

☐ G2<sup>®</sup> X Vena Cava Filter

☒ Eclipse<sup>®</sup> Vena Cava Filter

☐ Meridian<sup>®</sup> Vena Cava Filter

☐ Denali<sup>®</sup> Vena Cava Filter

☐ Other: \_\_\_\_\_

11. Date of Implantation as to each product:

May 12, 2011

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

☒ Count IV: Negligence - Design

☒ Count V: Negligence - Manufacture

☒ Count VI: Negligence – Failure to Recall/Retrofit

☒ Count VII: Negligence – Failure to Warn

☒ Count VIII: Negligent Misrepresentation

☒ Count IX: Negligence *Per Se*

- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of Implied Warranty
- ☒ Count XII: Fraudulent Misrepresentation
- ☒ Count XIII: Fraudulent Concealment
- ☒ Count XIV: Violations of Applicable Ohio ~~Ohio~~ New York Law  
Prohibiting Consumer Fraud and Unfair and Deceptive Trade  
Practices
- ☐ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): \_\_\_\_\_ (please state the facts  
supporting this Count in the space immediately below)

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13. Jury Trial demanded for all issues so triable?

X Yes

– No

1 RESPECTFULLY SUBMITTED this ~~13<sup>th</sup>~~ 14<sup>th</sup> day of February, 2017.

2 **LOWE LAW GROUP**

3 By: /s/ T. Aaron Stringer  
4 Nathan Buttars (UT 13659)  
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13 [aaron@lowelawgroup.com](mailto:aaron@lowelawgroup.com)

14 *Attorneys for Plaintiffs*

15 I hereby certify that on this ~~13<sup>th</sup>~~ 14<sup>th</sup> day of February, 2017, I electronically  
16 transmitted the attached document to the Clerk's Office using the CM/ECF System for  
17 filing and transmittal of a Notice of Electronic Filing.

18 /s/ T. Aaron Stringer  
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